

# Confidentiality: Access to Information Contained in Departmental Service Records

Rhode Island Department of Children, Youth and Families

**Policy: 100.0005**

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The Department of Children, Youth, and Families acknowledges a legal and an ethical obligation to keep confidential all information received from and about persons with whom the Department has been involved or otherwise has knowledge (see Policy 100.0000 Confidentiality and Rhode Island General Law (RIGL 42-72-8)). Such information shall be maintained in secure, confidential files and shall include all case recordings, correspondence, placement information, Family Court or other legal documentation, medical, scholastic and other evaluative material, and/or any other information generated and maintained by the Department or its agents or received from other sources. Access to such information must be limited to specific individuals who have a need and a right to know and shall be governed by all applicable state and federal laws and regulations and by Departmental policy and procedure.

Specific policies exist for the recording of information in Departmental service records. Possessing separate personal notes, records, duplicate files, or any information received from and/or about persons currently or previously involved with the Department is inconsistent with these policies and, therefore, prohibited.

This policy relates specifically to those service records originating in Child Protective Services including Screening/Intake, but excluding investigative and computer records, Family Services and most of Specialized Services, but excluding termination of parental rights and adoption material, and Probation excluding arrest, conviction, and criminal detention material. Access to most information contained in these service records must be preceded by a properly completed release of confidential information or as otherwise authorized by existing state or federal laws or regulations and by Departmental policy/procedure. Certain information, however, (such as adoption material, CPS reports, reporter/source information) shall be designated as "Restricted" and shall not be released to the client, his/her representative, or to most other individuals or agencies who otherwise have access to confidential information even with a properly completed confidential release. Such information can be released only to the courts or to defense counsel as directed by DCYF Legal Counsel in response to a properly issued court order or subpoena or as otherwise allowed by law or Departmental policy/procedure.

Release of confidential information by DCYF personnel is limited to only that information which was specifically generated by the Department or its agents. Confidential information contained in Departmental files which was requested and/or received from other sources (such as psychiatric/psychological evaluations, school records) shall remain the property of the originating source and can only be released by that source, with the express written or verbal permission of that source, or as otherwise authorized by existing laws or Departmental policy/procedure.

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## Confidentiality: Release of Confidential Information

### **Procedure from Policy 100.0005: Confidentiality: Access to Information Contained in Departmental Service Records**

All information contained in Departmental service records shall remain confidential and shall be disclosed only to authorized individuals or agencies on a need and a right to know basis in one of the following manners:

- A. The following individuals or agencies can obtain confidential information from the Department with a signed release of confidential information:
  - 1. The client about whom the Department has information or his/her parent or legal guardian, if a minor.
  - 2. Private or public social service agencies or professionals who are providing a service to the child(ren) and/or family.
  - 3. Other state or local agencies involved with the child(ren) and/or family (e.g., School Department, CES).
- B. Persons requesting confidential information from DCYF records shall use a properly completed Authorization to Obtain or Release Confidential Information (DCYF #007) or any other confidential release which meets the following criteria:
  - 1. The release must be specific as to the exact information being requested. When possible and appropriate, dates of service should be specified. The release should specify why the information is being requested and what the eventual use of such information will be.
  - 2. The need and the right of the requesting individual to know such information must be clearly established.
  - 3. The completed release must be signed and dated by the client(s) about whom the information is requested (his/her parent(s) or legal guardian(s), if a minor) and the person requesting this information, if different:
    - a. Any person or agency requesting confidential information about an individual's involvement with the Department must make every effort to explain to that individual what it is he/she is seeking and why.
    - b. At no time shall a client be asked to sign an incomplete or blank confidential release.
    - c. Information disclosed by means of a release of confidential information shall be limited to that information generated by the Department or its agents:
      - i. Information from other confidential sources can only be disclosed by that source or with the express consent of that source.
      - ii. At no time shall restricted information be released to anyone solely by means of a release of confidential information.
    - d. Any information released shall be specific to the individual(s) identified on the confidential release and shall be released only if that individual requesting information is properly authorized to obtain it:
      - i. Care and discretion shall be used in releasing any confidential information to a client or to others, especially that information which is particularly sensitive in nature.

- ii. Regardless of who is requesting confidential information, DCYF employees must be sure to protect the right to privacy of any other individual or agency identified in that information (e.g. foster parent(s), other family member(s)).

## Court Order or Subpoena

### **Procedure From Policy 100.0005: Confidentiality: Access to Information Contained in Departmental Service Records**

- A. Certain individuals or agencies can have access to confidential information contained in DCYF service records by means of a court order or subpoena, including:
  - 1. Rhode Island Family Court or any other local, state, or federal court.
  - 2. Attorneys representing any individual about whom the Department has information if the Court orders disclosure.
  - 3. Any other individual or agency granted access by the court.
- B. Information released under a court order or subpoena shall be limited to that which is specified in the court document.
- C. DCYF employees shall only release confidential information by court order or subpoena as instructed by DCYF legal staff:
  - 1. DCYF legal staff must be notified of any such document received by an employee of the Department.
  - 2. DCYF legal staff, after receipt of a subpoena or court order, shall instruct the appropriate Departmental personnel on what information to disclose.
- D. Although others may access certain confidential information maintained in Departmental records by subpoena or court order, only the courts may have access to restricted information.

## Existing Legal Statute

### **Procedure From Policy 100.0005: Confidentiality: Access to Information Contained in Departmental Service Records**

- A. Certain individuals or agencies can have access to confidential information contained in DCYF service records based on existing state law. These include:
1. Office of the Child Advocate:
    - a. RIGL 42-73-8 permits access to "all current records required to be maintained under provisions of Chapter 42-72."
    - b. RIGL 42-73-9 permits the Child Advocate "to have access, including the right to inspect, copy, and/or subpoena records held by the clerk of the Family Court, law enforcement agencies, and institutions, public and private, wherein a particular child has been either voluntarily or otherwise placed for care or treatment within or without the State of Rhode Island."
    - c. RIGL 42-73-10 states "all records of the child advocate pertaining to the care and treatment of a child shall be confidential."
  2. Office of the Attorney General when that office "is engaged in the investigation of or prosecution of criminal conduct by another relating to the child or other children within the same family unit" (RIGL 42-72-8).
  3. Individuals or public or private agencies engaged in medical, psychological or psychiatric diagnosis or treatment or education of the person under the supervision of the Department (RIGL 42-72-8).
  4. Individuals or public or private agencies for the purposes of temporary or permanent placement of the person and the Director determines that the disclosure is needed to accomplish that placement (RIGL 42-72-8). Under these circumstances, the Regional/Assistant Directors of the various divisions are authorized by the Director to release confidential information within the framework of existing policy and procedure.
  5. The Director determines that there is a substantial risk of imminent physical injury by the person to himself/herself or others and that disclosure of the records is necessary to reduce that risk (RIGL 42-72-8). If this situation exists, the Regional/Assistant Directors of the various divisions are authorized by the Director to release confidential information within the framework of existing policy and procedure.
  6. The Family Court including periodic reports regarding the care and treatment of children provided that if a child is represented by a guardian ad litem/CASA volunteer or attorney, a copy of the Family Court report will be made available to the guardian ad litem/CASA volunteer or attorney prior to its submission (RIGL 42-72-8).
- B. Although a release of confidential information is not required, requests for confidential information by the above mentioned individuals (except Family Court) should be in writing. This written request requirement does not prohibit the Department from providing confidential information to the above mentioned individual(s) prior to a written request if the conditions listed in **Existing Legal**

**Statute**, Section A, 3,4, 5 above exist and the individual(s) has a need and a right to know this information (RIGL 42-72-8):

1. If the case is known to be currently active, requests should be sent to the assigned worker/supervisor.
2. If the name of the active worker/supervisor is unknown or if the case is currently closed or if DCYF involvement is unknown, requests shall be sent to Information Systems, Division of Management and Budgeting for clearance:
  - a. If the case has been closed to service for more than ninety (90) calendar days, Information Systems shall send the request to the Administrator in the Division of Child Protective Services.
  - b. If the case is currently active or has been closed for less than ninety (90) calendar days, Information Systems shall send the request to the Assistant Administrator/Regional Director in the Division in which the case is or was last being serviced.
3. If the request is specific to information contained in Child Protective Investigative records (opened or closed), it should be sent directly to the Administrator in Child Protective Services.
4. The DCYF Legal Office must be consulted before any specific case information is released to the Attorney General's Office.

## Consent of the Director

### **Procedure From Policy 100.0005: Confidentiality: Access to Information Contained in Departmental Service Records**

- A. The following individuals or agencies can obtain certain confidential information from Departmental records with the consent of the Director or his/her designee:
  - 1. Media/press
  - 2. Persons authorized to perform audits or bona fide research
  - 3. Legislators or other public officials
  - 4. Law enforcement officers
  - 5. Employees of the Department of Children, Youth, and Families if needed in the performance of their duties
  - 6. Educational surrogate parent/advocates if the information relates to educational matters
  - 7. Juvenile prosecutor if the information specifically relates to the offense with which the child has been charged
  - 8. CASA volunteers as prescribed in Departmental policy/procedure
  - 9. Foster parents/child care providers if the information specifically relates to educational, medical, specific personal characteristics, and/or involvement in the juvenile justice system
  - 10. Other individuals or agencies deemed solely by the Director to have a need and a right to know such information.
- B. Requests for confidential information from certain individuals noted above shall only be responded to by the proper staff person on a need and right to know basis:
  - 1. Audit/research requests shall be made in writing and shall be presented to the Director or his/her administrative designee for approval.
  - 2. Media/press requests shall be directed to the Chief of Staff, the Director, or someone designated by the Director.
  - 3. Requests from legislators or other public officials, unless otherwise authorized by the Director or his/her designee, shall be responded to only upon the receipt of a valid confidential release.
  - 4. Call Floor workers/supervisors can release all abuse/neglect reports on an individual or family contained on the Call Floor to law enforcement officers if such officers are investigating a report of known or suspected child abuse or neglect.



## Requests for Confidential Information Contained in Active Service Records

### **Procedure From Policy 100.0005: Confidentiality: Access to Information Contained in Departmental Service Records**

- A. Only those individuals or agencies specified in this policy or in other Departmental policies shall be given verbal information within the limits specified.
- B. Information Systems shall clear the name(s) provided for involvement with the Department. If the case is currently active, the request for information shall be sent to the assigned worker/supervisor.
- C. All others requesting information must be instructed to send a written request, including a signed release of confidential information when required. Information which can be released includes the following:
  - 1. A general explanation as to the reason for involvement with the Department. Care must be taken to protect source identity and confidential information regarding others.
  - 2. A general summary of medical care/conditions of the child while in care. The individual should be referred to the physician/health care facility for details.
  - 3. A general summary of the child's education while in care. The individual should be referred to the local school department for details.
  - 4. A general summary of the child's placement history with the Department. Permission, however, should be sought from the foster parents if identifying information is to be given.
  - 5. A summary of the child's/family's involvement with the Department. Care must be taken, however, to protect each individual's right to privacy when disclosing general information.
  - 6. Confidential information from third party sources (such as psychiatric/psychological evaluations) shall not be released by the Department without the expressed consent of that source. Individuals, however, may be made aware of such reports and who to contact to obtain more information.
- D. Any request for confidential information and the response to that request must be documented in a Case Activity Note.

## Requests for Confidential Information Contained in Closed Service Records

### **Procedure From Policy 100.0005: Confidentiality: Access to Information Contained in Departmental Service Records**

- A. Requests for confidential information contained in closed DCYF service records shall first be referred to Information Systems (or to the Assistant Director of Child Protective Services for CPS investigative records).
- B. Except where allowed in this policy and in other Departmental policy, all requests for confidential information from closed service records must be in writing:
  - 1. Written requests shall be addressed to Information Systems, Division of Management and Budgeting and shall include the following:
    - a. The full name (including maiden name) and date of birth of the person about whom the information is being requested.
    - b. The name of the person requesting the information, if different:
      - i. If other than the parent/guardian of a minor with whom the Department was involved, a signed confidential release or valid court order/subpoena will be necessary.
      - ii. The person requesting information should include an address, telephone number, and/or other means of being contacted.
    - c. The name(s) and date(s) of birth of the parent(s)/guardian(s) if the person about whom the information is being requested was a minor at the time of his/her involvement with the Department.
    - d. The specific information being requested in as much detail as possible (such as dates of involvement, type of involvement).
    - e. Why this information is being requested.
  - 2. Any written request for confidential information from a closed service record which is received elsewhere in the Department shall be initially forwarded to Information Systems. Information Systems shall clear the name(s) provided for past involvement with the Department and handle the request as follows:
    - a. If closed for more than ninety (90) calendar days, the request is sent to the Administrator in Child Protective Services for processing:
      - i. If the request relates to a finalized adoption case, the Assistant Director, Child Protective Services shall determine if the worker involved in the original adoption process is still employed by the Department.
      - ii. If applicable, the Administrator in Child Protective Services shall forward the request to this previously assigned worker via his/her current supervisor.
      - iii. The supervisor, in conjunction with the previously assigned worker, shall respond to the request in accordance with policy.
      - iv. If the previously assigned worker is no longer employed in the above specified units, then the request will be processed by the Intake Office Supervisor.

- b. If closed for less than ninety (90) calendar days, the request is sent to the Assistant Administrator/Regional Director in the Division in which the case was last active.
- 3. If the person has never been involved with the Department, Information Systems shall send a letter to that effect to the person who made the request.

## Requests for Confidential Information Forwarded by Information Systems

### **Procedure From Policy 100.0005: Confidentiality: Access to Information Contained in Departmental Service Records**

- A. Requests for confidential information forwarded by Information Systems to the Administrator of CPS shall be processed as follows:
  - 1. The Administrator or his/her designee shall fill in the known information on the Intake Services Referral window and shall assign the request to the Intake Office Supervisor for assignment.
  - 2. The Intake Office Supervisor shall assign the case and request the closed record from the DCYF Record Center. The record, with the request for information, is given to the assigned Intake Worker for resolution.
  - 3. The Intake worker shall review the record and shall outline that information which was requested:
    - a. The Intake worker shall summarize for release that information which can be released.
    - b. At no time shall restricted information be released without a court order.
  - 4. After confirming with the his/her supervisor what information shall be released, the Intake worker shall share such data with the requester in one of the following ways:
    - a. Face-to-face. Intake Workers must be sure to request positive identification before disclosing any information.
    - b. By mail. Only summaries shall be sent by the Intake worker. If specific items from the record are requested (such as baptismal certificate, Social Security card), a face-to-face contact must be made.
  - 5. Once a request for information has been responded to, the Intake worker must document such response in a Case Activity Note.
  - 6. The case shall be forwarded to the Administrator, CPS or designee to enter the completed response in a Case Activity Note and the record shall be returned to the DCYF Record Center.
- B. Requests for confidential information forwarded by Information Systems to other Assistant Administrators/Regional Directors shall be processed as follows:
  - 1. Active cases- Requests shall be forwarded to the assigned worker/supervisor. The worker/supervisor shall handle the request as specified in policy.
  - 2. Cases closed less than ninety (90) days- Requests shall be forwarded to the last assigned supervisor. The supervisor, in conjunction with the last assigned service worker, shall respond to the request in the same manner as in Intake.